

1 THE CLERK: 11 CR 50062, U.S.A. v. Dayton Poke.

2 MR. KARNER: Good morning, your Honor. Mark Karner on
3 behalf of the United States.

4 MS. RIPPY: Good morning, your Honor. Tina Rippy on
5 behalf of Mr. Poke, who is present.

6 THE COURT: Good morning. This case was originally set
7 for sentencing, but before the sentencing hearing, I received a
8 motion from the defendant that I thought it was necessary to
9 address before having a sentencing hearing. The motion is
10 styled a motion for substitution of appointed counsel. And
11 after I read the motion, I don't know whether the defendant is
12 asking to represent himself, whether he just wants more time to
13 talk to Ms. Rippy, or whether he's asking for a new attorney.

14 Mr. Poke, can you tell me which of those alternatives
15 you're looking for?

16 DEFENDANT POKE: It was two of them. I did need more
17 time to talk to her, but if she wasn't available because our
18 communication been off, I was going to proceed in representing
19 myself. But I just had time to talk to her because the
20 situation that I'm in at MCC, it's hard for her to talk to me,
21 and then the e-mail is just off, and then the phone system ain't
22 set up. So, we ain't been able to communicate properly.

23 So, I was under the impression that I was going to come
24 in and proceed to represent myself, but we came to an
25 understanding that she going to be able to look up more of the

1 stuff that I needed her to look up for my sentencing memorandum.

2 THE COURT: All right.

3 MS. RIPPY: I have had an opportunity this morning to
4 speak with Mr. Poke, and I think he was under the impression
5 that our communication wasn't as he wanted it, and, yes, it's
6 been very difficult to communicate with Mr. Poke. It's
7 difficult to get into Chicago to see him in person. The weather
8 hasn't been kind, and it's difficult to drive in there. We were
9 communicating by e-mail, and as I understand --

10 THE COURT: Excuse me just a minute.

11 (Brief pause.)

12 THE COURT: I'm sorry for interrupting.

13 MS. RIPPY: May I proceed?

14 Apparently -- I hadn't heard from Mr. Poke for some
15 time via e-mail, and apparently the e-mail -- he needs to have
16 money in order to use the e-mail, and he didn't have the
17 sufficient funds to do so, which I did not know.

18 So, the bottom line is that we've had an opportunity to
19 talk this morning. I would like an opportunity to research some
20 additional information and case law that Mr. Poke brought to my
21 attention that might be relevant to his sentencing and the
22 memorandum that I filed.

23 Mr. Poke has agreed that he would like me to continue
24 as his attorney and represent him and that I would ask the court
25 if I could withdraw the sentencing memorandum and strike that

1 and then file a new sentencing memorandum after I've had some
2 time to research additional information and case law and
3 communicate that to Mr. Poke and that he has time to communicate
4 back to me.

5 THE COURT: All right. That's correct, Mr. Poke?

6 DEFENDANT POKE: Yes.

7 THE COURT: All right.

8 DEFENDANT POKE: I apologize for the misunderstanding,
9 your Honor.

10 MR. KARNER: Judge, our position is that we'd like to
11 get this on a short leash. They've had a lot of time to
12 research the issues.

13 THE COURT: I agree. We should get it done as
14 expeditiously as possible with a mind toward preserving
15 Mr. Poke's rights.

16 When are you going to file your motion or your new
17 memorandum?

18 MS. RIPPY: Well, I'm going to -- today Mr. Poke is
19 going to give me some paperwork that he's been working on so
20 that I can review it. I'm going to provide Mr. Poke with a copy
21 of the government's response to the sentencing memorandum that I
22 previously filed. I should be able to review the paperwork that
23 Mr. Poke has provided me within the next two weeks and get him
24 the additional -- or a draft of the sentencing memorandum so
25 that he can look at it.

1 So, I should be able to have him get back to me at
2 least by -- give him about a ten-day turnaround so that he can
3 get back to me in writing with his thoughts. Or if the weather
4 clears up a little bit, maybe I can even drive into Chicago
5 again. The court should understand that that's about an
6 eight-hour trip, at least, and sometimes it doesn't always work
7 out. The last time I went in, I had to go back to MCC after
8 about three hours and try to get back up to see him because
9 there was some issues with actually having him come and see me.
10 So, it was about a twelve-hour trip. So, it's a real -- it's
11 difficult.

12 So, I'm hoping that we should be able to get done with
13 this by the end of -- I should be able to get done with it by
14 the end of February, and perhaps we could have the sentencing
15 hearing in March.

16 THE COURT: All right. I'll give you 30 days to file
17 an amended memo. How much time to respond?

18 MR. KARNER: One week would be fine, Judge.

19 THE COURT: All right. The memo is due February -- the
20 defendant's memo is due February 21st. The government has until
21 February 28th to respond. We'll set this for sentencing on
22 March 13th at 2:30. Or at 9:30. I'm sorry.

23 MR. KARNER: March 13th?

24 THE COURT: Right.

25 MR. KARNER: Thank you.

1 THE COURT: And you're withdrawing your motion,
2 Mr. Poke?

3 DEFENDANT POKE: Yes, sir.

4 THE COURT: All right. Court's in recess.

5 MS. RIPPY: Thank you, your Honor.

6 THE COURT: You're welcome.

7 MS. RIPPY: I would like to have about ten minutes to
8 talk with Mr. Poke afterward.

9 THE COURT: Bruce, can you allow that?

10 THE MARSHAL: Yes.

11 MS. RIPPY: All right. Thank you.

12 (Which were all the proceedings had in the above-entitled
13 cause on the day and date aforesaid.)

14 I certify that the foregoing is a correct transcript from
15 the record of proceedings in the above-entitled matter.

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Mary T. Lindbloom
19 Official Court Reporter

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